

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Ridge	Team: Squad #5	CCRB Case #: 201800517	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/06/2018 4:31 PM	Location of Incident: inside § 87(2)(b) § 87(2)(b)	Precinct: 79	18 Mo. SOL 7/6/2019	EO SOL 7/6/2019	
Date/Time CV Reported Mon, 01/08/2018 1:38 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/08/2018 1:38 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT James Long	00000	924080	079 PCT
2. LT Tommy Keung	00000	942001	PSA 3
3. POM Ratan Mozumder	29182	954155	PSA 3
4. CPT Lashonda Dyce	00000	932152	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gimmy Abraham	16127	957312	079 PCT
2. POM Robert Hunter	21769	962488	079 PCT
3. POM Karl Richards	13237	924388	079 PCT
4. POM Pardeep Kumar	17095	959742	PSA 3
5. POM Cory Paradine	15118	961996	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ratan Mozumder	Abuse: Police Officer Ratan Mozumder threatened to arrest § 87(2)(b)	
B.POM Ratan Mozumder	Abuse: Police Officer Ratan Mozumder threatened to arrest § 87(2)(b)	
C.POM Ratan Mozumder	Abuse: Police Officer Ratan Mozumder threatened to arrest § 87(2)(b)	
D.LT James Long	Abuse: Lieutenant James Long threatened to damage § 87(2)(b)'s property.	
E.LT James Long	Abuse: Lieutenant James Long threatened to damage § 87(2)(b)'s property.	
F.LT James Long	Abuse: Lieutenant James Long threatened to damage § 87(2)(b)'s property.	
G.LT James Long	Abuse: Lieutenant James Long entered § 87(2)(b) in Brooklyn.	
H.LT James Long	Abuse: Lieutenant James Long searched § 87(2)(b) in Brooklyn.	
I.LT Tommy Keung	Abuse: Lieutenant Tommy Keung entered § 87(2)(b) in Brooklyn.	
J.LT Tommy Keung	Abuse: Lieutenant Tommy Keung searched § 87(2)(b) in Brooklyn.	

Officer(s)	Allegation	Investigator Recommendation
K.CPT Lashonda Dyce	Abuse: Captain Lashonda Dyce entered § 87(2)(b) in Brooklyn.	
L.CPT Lashonda Dyce	Abuse: Captain Lashonda Dyce searched § 87(2)(b) in Brooklyn.	

Summary of Complaint

On January 8th, 2018, § 87(2)(b) filed this complaint with the CCRB via phone.

On January 6th, 2018, at approximately 4:31PM, Police Officer Ratan Mozumder of Police Service Area 3 threatened to arrest § 87(2)(b) and § 87(2)(b) (Allegations A-C: Abuse of Authority, § 87(2)(g) Lieutenant James Long of the 79th Precinct threatened to damage § 87(2)(b)s, § 87(2)(b)s, and § 87(2)(b)s property (Allegations D-F: Abuse of Authority, § 87(2)(g) after which time he and Lieutenant Tommy Keung of Police Service Area 3 entered and searched § 87(2)(b) of § 87(2)(b) in Brooklyn under the supervision of Captain Lashonda Dyce of the 79th Precinct (Allegations G-L: Abuse of Authority, § 87(2)(g) § 87(2)(b) provided video from her cell phone which captures a portion of the incident.

Findings and Recommendations

Allegation A—Abuse of Authority: Police Officer Ratan Mozumder threatened to arrest

§ 87(2)(b)

Allegation B—Abuse of Authority: Police Officer Ratan Mozumder threatened to arrest

§ 87(2)(b)

Allegation C—Abuse of Authority: Police Officer Ratan Mozumder threatened to arrest

§ 87(2)(b)

The following account of events is undisputed: On January 6th, 2018, at approximately 4:31PM, § 87(2)(b) and her two sons, § 87(2)(b) and § 87(2)(b) were at home in § 87(2)(b) of § 87(2)(b) in Brooklyn when PO Mozumder and PO Kumar knocked on the door and informed them that a young girl made a call alleging that she was being held hostage at gunpoint in the apartment. § 87(2)(b) told the responding officers that no one was being held captive and refused to open the door despite multiple requests from PO Mozumder.

A 911 call recording and Event documentation indicate that a female individual called 911, reported she was being held hostage at that location by an elderly black woman who had a gun and a black male individual. (BR27-28). Before providing more than her first name or any other identifying information, the caller said someone was coming and hung up. Subsequent calls to the 911 caller went unanswered.

§ 87(2)(b) testified that shortly after PO Mozumder and PO Kumar arrived on scene, PO Mozumder said that if no one opened the door, everyone in the apartment would be arrested. (BR01).

§ 87(2)(b) and § 87(2)(b) did not allege a threat of arrest on the part of any officer. (BR02-03). The video footage for the portion of the incident captured by § 87(2)(b) on her cell phone does not capture any mention of arrest. The video footage captures the portion of the incident following the arrival of Lt. Long, which according to § 87(2)(b) took place after the threat of arrest.

PO Mozumder denied threatening to arrest the occupants of the apartment. (BR04).

PO Kumar testified that no one threatened to arrest the occupants of the apartment. (BR05).

§ 87(2)(g)

Allegation D—Abuse of Authority: Lieutenant James Long threatened to damage § 87(2)(b)'s property.

Allegation E—Abuse of Authority: Lieutenant James Long threatened to damage § 87(2)(b)'s property.

Allegation F—Abuse of Authority: Lieutenant James Long threatened to damage § 87(2)(b)'s property.

Allegation G—Abuse of Authority: Lieutenant James Long entered § 87(2)(b) in Brooklyn.

Allegation H—Abuse of Authority: Lieutenant James Long searched § 87(2)(b) in Brooklyn.

Allegation I—Abuse of Authority: Lieutenant Tommy Keung entered § 87(2)(b) in Brooklyn.

Allegation J—Abuse of Authority: Lieutenant Tommy Keung searched § 87(2)(b) in Brooklyn.

Allegation K—Abuse of Authority: Captain Lashonda Dyce entered § 87(2)(b) in Brooklyn.

Allegation L—Abuse of Authority: Captain Lashonda Dyce searched § 87(2)(b) in Brooklyn.

The following account of events is undisputed: After Lt. Long asked § 87(2)(b) to open the door multiple times, he threatened to call ESU to break down the door. Following multiple requests from Lt. Long, § 87(2)(b) eventually opened the door and § 87(2)(b) and § 87(2)(b) told Lt. Long and Lt. Keung that they could come inside. Lt. Keung remained near the doorway with § 87(2)(b) while § 87(2)(b) led Lt. Long through each of the rooms of the apartment. As a result, Lt. Long and Lt. Keung determined that no one was held hostage in the apartment.



201800517_20180409_1416_DM.wav

The 911 recording is consistent with the information provided by all parties. (BR06).



201800517_20180821_1659_DM.mp4

Video footage of the incident captures the following: At the 00:24 minute mark, Lt. Long says, “We’re not going away. Understand that. Do I gotta call people have to break this door in?” (BR07).

Lt. Long provided the following testimony: Lt. Long threatened to call ESU to break down the door so that the occupants of the apartment would voluntarily open the door. (BR08). Lt. Long called ESU shortly before telling the occupants of the apartment about calling someone

to break down the door. Lt. Long called ESU because the fact that a girl was allegedly being held at gunpoint in a barricaded apartment created an emergency situation. The fact that § 87(2)(b) refused to open the door raised Lt. Long's suspicion that something was amiss in the apartment. Around the time Lt. Long called ESU, Captain Lashonda Dyce arrived on scene. Lt. Long briefed Captain Dyce on the situation. Captain Dyce concurred with Lt. Long's decisions up to this point and did not offer any further insight or advice as to what should be done.

Lt. Keung could not remember if Captain Dyce responded. (BR10).

Captain Dyce testified that she had no recollection or familiarity with the incident, but that she often goes out into the field. (BR11). § 87(2)(g)

Officers may enter a private residence without a warrant or consent when: (1) there are reasonable grounds to believe there is an emergency at hand and that there is an immediate need for their assistance for the protection of life or property; (2) the search must not be primarily motivated by an intent to arrest and seize evidence; and (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area to be searched. People v. Mitchell, 39 N.Y.2d 173 (1976). (BR23). The United States Supreme Court rejected the second Mitchell factor, ruling that only the first and third factors must be present, but the New York Court of Appeals has not yet determined whether it will also abandon the second factor. Brigham City v. Stuart, 547 U.S. 398 (2006). (BR24).

A call to a 911 operator may justify a warrantless entry into an individual's residence. See Anthony v. City of New York, 339 F.3d 129, 136-37 (2d Cir. 2003) (holding that a 911 call from woman claiming that she was under "immediate and deadly threat of harm" was sufficient basis for warrantless entry). (BR25). However, not every 911 call justifies such an entry. See Kerman v. City of New York, 261 F.3d 229 (2d Cir. 2001). In Kerman, the police received a 911 call from an anonymous caller who stated only that "a mentally ill man at [an identified] location was off his medication and acting crazy and possibly had a gun." (BR26). The caller did not identify herself or state her relationship to the person she was calling about; nor did she explain how she knew that the plaintiff was mentally ill or how he could present a threat to himself or others. When the police arrived at the apartment and began knocking on the door, the plaintiff opened it. The police nonetheless rushed into the plaintiff's apartment without consent and took him into custody. Kerman held that these actions violated the plaintiff's Fourth Amendment rights on the ground that the "uncorroborated and anonymous 911 call" was not supported by sufficient indicia of reliability to justify the police officers' warrantless entry into the plaintiff's home. Kerman, 261 F.3d at 236.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED].
§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Mediation, Civil, and Criminal Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
- The NYC Office of the Comptroller responded to a request on August 20th, 2018, indicating that no notice of claim was filed by § 87(2)(b) [REDACTED] or § 87(2)(b) [REDACTED] regarding this incident. (BR12).
- § 87(2)(b) [REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(b)

- PO Mozumder has been a MOS for five years, and this is the first CCRB complaint filed against him. (BR19).
- Lt. Long has been a MOS for 19 years, and this is the fifth CCRB complaint filed against him. (BR20). The previous four complaints generated five allegations, one of which was Abuse of Authority – Premises entered and/or searched and was closed as Exonerated. The CCRB did not substantiate any of these allegations and the NYPD has not imposed any discipline pursuant to these CCRB cases.
- Lt. Keung has been a MOS for 12 years, and this is the third CCRB complaint filed against him. (BR21). The previous two complaints generated two allegations. § 87(2)(g) The CCRB did not substantiate any of these allegations and the NYPD has not imposed any discipline pursuant to these CCRB cases.
- Captain Dyce has been a MOS for 15 years, and this is the fourth CCRB complaint filed against her. (BR22). The previous two complaints generated five allegations, one of which was Abuse – Premises entered and/or searched, made in CCRB Case 200409961. This allegation was disposed of as Substantiated (Charges). The NYPD imposed a penalty of Instruction for this allegation.

Squad No.: 5

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date